

October 18, 2012

VIA HAND DELIVERY

KUTV

Attn: Mr. Kent Crawford
299 South Main Street, #150
Salt Lake City, UT 84111

Re: Deceptive and Defamatory Advertisements on Your Broadcast Station

Dear Mr. Crawford:

I write on behalf of my client, Friends of Mia Love, regarding a misleading advertisement that the outside group Center Forward is running on your broadcast station about Mayor Mia Love, a candidate for U.S. House of Representatives for Utah's 4th Congressional District ("the Advertisement"). The Advertisement's main false claim is that Mayor Love, by backing a fiscal plan favored by Congressman Paul Ryan, "supported a budget plan the *Wall Street Journal* said would 'essentially end Medicare.' ... Mia Love breaks Medicare—seniors pay the price."

Several similar advertisements about the Ryan Budget have recently been removed from the air for making false claims. For instance, Station WCCO pulled an advertisement against Congressman Cravaack in Minnesota's 8th Congressional District¹, and Station WTRF pulled another similar advertisement in Ohio's 6th Congressional District,² all within the last few weeks. Furthermore, the Ohio Elections Commission has even unanimously voted to find probable cause that a nearly identical ad about the Ryan Budget and Medicare was a false statement.³

Advertisements that claim the Ryan Budget would "end" Medicare have even been given the dubious honor of being PolitiFact's "Lie of the Year."⁴ FackCheck.org and other fact-checking organizations have also noted that the *Wall Street Journal* actually said the budget would "essentially end Medicare ... as a program that directly pays those bills," some vital wording that this ad — and several other Democratic attack ads — conveniently omits.⁵ Deceitfully editing the *Wall Street Journal*, as the Advertisement does, gives viewers a mistaken impression that Medicare would somehow end and seniors would no longer receive health benefits from the government in retirement, which is simply not true.

¹ "TV Stations and Voters Begin To Question Wilson's Ads," Johnson Campaign Press Release, 9/18/12

² Kevin Diaz, "WCCO Pulls Attack Ad Against Cravaack," *Minneapolis Star Tribune*, 9/17/12

³ "Hearing Finds Probable Cause That Wilson Ad Makes False Statements," *The Youngstown Vindicator*, 9/20/12

⁴ "Lie of the Year 2011: 'Republicans voted to end Medicare,'" 12/20/2011, available at <http://www.politifact.com/truth-o-meter/article/2011/dec/20/lie-year-democrats-claims-republicans-voted-end-me/>

⁵ "Democratic PAC Revisits Old Claims," FackCheck.org, Annenberg Public Policy Center, 7/30/12

In fact, the Ryan Budget makes no changes to Medicare for current or near retirees.⁶ Seniors would receive the same government-provided fee-for-service coverage they receive now, as noted by the *Wall Street Journal*, the very source Center Forward cites in the Advertisement: “[F]uture retirees would get subsidies to buy private insurance plans—or have the option of keeping traditional Medicare.”⁷ FactCheck.org further notes that “Medicare would remain an entitlement program...It would not end.”⁸ And PolitiFact concludes that claims the Ryan Budget would “end” Medicare are a “major exaggeration,” since “All seniors would continue to be offered coverage under the proposal, and the program’s budget would increase every year.”⁹ Finally, Yuval Levin, a fellow at the Ethics and Public Policy Center, says that under the Ryan plan promises that “seniors are guaranteed at least one and generally two options that provide comprehensive coverage for no greater out-of-pocket costs than they have now.”¹⁰ In sum, then, Medicare would remain a government program that guarantees coverage for our nation’s seniors. To say that Mayor Love “supported a budget plan the *Wall Street Journal* said would ‘essentially end Medicare’ or that ‘Mia Love breaks Medicare’ deliberately distorts the *Wall Street Journal*’s reporting and the underlying substance of the Ryan Budget.

These false claims bankrolled by Center Forward against Mayor Love do not constitute a “candidate use.” Under *Columbia Broadcasting Sys., Inc. v. Democratic Nat’l Comm.*, 412 U.S. 94 (1973), and *Nat’l Conservative Political Action Comm.*, 89 FCC 2d 626 (1982), your station is not obligated to air any advertisements from third parties, such as Center Forward, as third parties have no guaranteed right of access to air their advertisements on your station. Thus, broadcasting stations are not protected from legal liability for airing a false and misleading advertisements sponsored by Center Forward. Moreover, broadcast licensees have a legal responsibility to review and to eliminate any false, misleading, or deceptive materials contained in advertising. Failure to do can be grounds for revocation of a station’s license. See *Cosmopolitan Broad. Corp. v. FCC*, 581 F.2d 917, 927 (D.C. Cir. 1978).

Your station is hereby on notice that the Advertisement is false, and intended to deceive Utah voters and defame Mia Love’s reputation. Friends of Mia Love therefore respectfully demands that your station immediately cease airing the Advertisement. Please contact me at your earliest convenience (202-862-5046 or msanderson@capdale.com) to advise as to your station’s actions with respect to the Advertisement.

Sincerely,



Matthew T. Sanderson
Caplin & Drysdale, Chartered

⁶ “Long-Term Analysis of a Budget Proposal by Chairman Ryan” at page 9, April 5, 2011, issued by the Congressional Budget Office

⁷ Kurt Schroeder, “Paul Ryan’s Medicare Plan: 5 Things To Know,” *The Wall Street Journal*, August 13, 2012

⁸ See, e.g., “DCCC Dials Wrong Number,” FactCheck.org, 6/13/2011

⁹ See “Democrats say Republican voted to end Medicare and charge seniors \$12,000,” St. Petersburg Times PolitiFact, April 21, 2011, available at <http://www.politifact.com/truth-o-meter/> (emphasis added).

¹⁰ Ibid.